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and Tanana Chiefs Conference*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

ALATNA VILLAGE COUNCIL, *et al.*,

Plaintiffs,

v.

THOMAS HEINLEIN, in his official
capacity, *et al.*,

Defendants,

and

AMBLER METALS, LLC, *et al.*,

Intervenor-Defendants.

Case No. 3:20-cv-00253-SLG

**PLAINTIFFS' NOTICE REGARDING ORAL ARGUMENT
AND NOTICE OF NEW INFORMATION**

Plaintiffs hereby notify the Court that they are not in favor of scheduling oral argument, but would of course participate if one is scheduled. Plaintiffs also hereby notify the Court of new information relevant to Defendants' pending Motion for Voluntary Remand, which is set forth as Exhibit 1 hereto.

1. Oral Argument

Defendants' Motion for Voluntary Remand is now fully briefed.¹ To date, Intervenor Ambler Metals, LLC is the only party that has requested oral argument.² Plaintiffs have consulted with counsel for some of the other parties, and it appears scheduling oral argument on a date feasible for everyone would be quite difficult. The earliest available date would likely be in mid- to late May. Thus, oral argument would introduce approximately a 6-week delay in reaching a decision concerning remand, and this would in turn delay briefing on the merits if the motion is denied. As indicated in previous filings, Plaintiffs are concerned about further delays because ground-disturbing work remains authorized and could cause irreversible harm to subsistence, cultural resources, and the environment while the litigation remains pending.³

Additionally, the parties' positions concerning Defendants' motion have been explained in the briefing, and the Court is thus well-equipped to make a decision. An oral argument with counsel for seven separate parties, or groups of parties, across the two

¹ ECF 111, 124, 125, 126, 127, 128, 132. Additional briefing concerning Defendants' Motion for Voluntary Remand has been filed in the parallel lawsuit, *NAEC v. Heinlein*, 3:20-cv-00187-SLG, ECF 113, 127, 128, 129, 130, 131, 132.

² ECF 125.

³ ECF 79, 113, 128.

cases means each party would get little time to clarify their positions or answer the Court's questions. As such, oral argument is not likely to be very helpful to the Court in understanding the issues and would not be worth delaying the litigation.

2. New Information

On March 31, 2022, Intervenor Alaska Industrial Development & Export Authority (AIDEA) submitted to Defendant U.S. Bureau of Land Management (BLM) a Revised Draft Work Plan for the Ambler Access Project for 2022. Excerpts from this new, lengthy 561-page document are submitted herewith.⁴

The Revised Draft Work Plan demonstrates AIDEA is still actively pursuing authorization to conduct extensive ground-disturbing activities in 2022 and 2023. For instance, AIDEA is seeking authorization to conduct geotechnical drilling at 23 potential bridge crossings and 43 potential gravel extraction sites from June through September 2022 and at another 22 bridge locations and 44 locations along the proposed road corridor starting in January 2023.⁵ AIDEA is continuing to seek approval for many other types of field work as well, including site preparation, establishment of remote helicopter landing zones, engineering reconnaissance, hydrological and hydraulic studies, land surveys and right-of-way activities, fish habitat studies, wetland investigations, geophysical surveys and probing, and other activities.⁶

⁴ Exhibit 1. The original document from which this exhibit was excerpted and redacted is marked "confidential" to protect sensitive cultural resource information. No such information is included in the exhibit.

⁵ *Id.* at 13-14, 23-24, 27-30.

⁶ *Id.* at 4, 11-12.

This new information is relevant to whether Defendants’ Motion for Voluntary Remand would adversely affect the public interest and prejudice Plaintiffs.⁷ It also calls into question the accuracy of AIDEA’s statements that its 2022 field season has been “effectively cancelled.”⁸ The new information also casts doubt on Defendants’ assurances that the “environmental status quo” would be preserved during its proposed partial reconsideration of the claims at issue in this litigation.⁹

DATED: April 8, 2022

Respectfully submitted,

CLEMMER LAW OFFICE, LLC

By: s/ Teresa B. Clemmer
Teresa B. Clemmer (AK Bar No. 0111059)

Counsel for Plaintiffs

⁷ ECF 128 at 22-27.

⁸ ECF 126 at 6; ECF 126-1 at 7; ECF 132 at 10. *See* ECF 126 at 7, 19-20; ECF 126-1 at 8-9, 11.

⁹ ECF 132 at 10; ECF 111-1 at 5. *See* ECF 111 at 22-23.

CERTIFICATE OF SERVICE

I hereby certify that, on April 8, 2022, I caused copies of the following:

PLAINTIFFS' NOTICE REGARDING ORAL ARGUMENT

to be filed with the Court and served by electronic means on all counsel of record through the Court's CM/ECF system.

/s/ Teresa B. Clemmer
Teresa B. Clemmer